



Billing Code: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 121004518-3398-01]

RIN 0648-XC669

Reef Fish Fishery of the Gulf of Mexico; 2013 Recreational Accountability Measure and Closure for Gray Triggerfish in the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for recreational gray triggerfish in the Gulf of Mexico (Gulf) reef fish fishery for the 2013 fishing year through this temporary final rule. Based on the projected recreational landings, NMFS determined that the recreational annual catch target (ACT) for Gulf gray triggerfish was reached in August 2013. Therefore, NMFS closes the recreational sector for gray triggerfish in the Gulf EEZ at 12:01 a.m., local time, October 15, 2013, until January 1, 2014. This closure is necessary to reduce overfishing of the Gulf gray triggerfish resource.

DATES: This rule is effective 12:01 a.m., local time on October

15, 2013, until 12:01 a.m., local time on January 1, 2014, unless changed by subsequent notification in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, Southeast Regional Office, telephone 727-824-5305, e-mail [rich.malinowski@noaa.gov](mailto:rich.malinowski@noaa.gov).

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf, which includes gray triggerfish, is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On May 9, 2013, the final rule for Amendment 37 to the FMP implemented the Gulf gray triggerfish recreational annual catch limit (ACL) of 241,200 lb (109,406 kg), round weight, and the recreational ACT of 217,100 lb (98,475 kg), round weight (78 FR 27084, May 9, 2013), as specified in 50 CFR 622.41(b)(2)(iii).

The final rule for Amendment 37 to the FMP implemented an in-season AM to close the recreational sector when its ACT is reached or projected to be reached, as specified in 50 CFR 622.41(b)(2)(i).

Based on the 2013 projected recreational landings estimates, the recreational ACT of 217,100 lb (98,475 kg), round weight, for

Gulf gray triggerfish was reached in August 2013. Therefore, NMFS implements the in-season AM and the recreational harvest of Gulf gray triggerfish will close at 12:01 a.m., local time on October 15, 2013, until 12:01 a.m., local time on January 1, 2014.

During the closure, the bag and possession limit of gray triggerfish in or from the Gulf EEZ is zero. This bag and possession limit applies in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued, without regard to where such species were harvested, i.e. in state or Federal waters. The recreational sector for gray triggerfish will reopen on January 1, 2014, the beginning of the 2014 recreational fishing season.

#### Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf gray triggerfish and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.41(b)(2) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. Pursuant to 5 U.S.C. 553(b) (B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule because such procedures are unnecessary. The AMs state that NMFS will file a notification with the Office of the Federal Register to close the recreational sector for Gulf gray triggerfish for the remainder of the fishing year if recreational landings reach or are projected to reach the recreational ACT specified in 50 CFR 622.41(b) (2) (iii). All that remains is to notify the public of the reduced recreational fishing season for gray triggerfish for the remainder of the fishing year.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the gray triggerfish resource. Any delay in the closure of the recreational sector could result in the recreational ACL for gray triggerfish being exceeded, which, in turn, would trigger an additional AM for gray triggerfish. The AM states that if recreational landings exceed the ACL, and gray triggerfish is overfished, NMFS will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the ACL and the ACT for that following fishing year by the amount of the

ACL overage in the prior fishing year. Reducing the ACL and ACT the following fishing season could be disruptive to business plans and would provide less flexibility to fishermen for when they could harvest the ACL.

For the aforementioned reasons, the Assistant Administrator, NMFS, also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: October 1, 2013.

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Samuel D. Rauch III,  
Deputy Assistant Administrator for Regulatory Programs,  
performing the functions and duties of the Assistant  
Administrator for Fisheries, National Marine Fisheries  
Service.

Date: 10/04/2013]